

1 KEVIN V. RYAN (CASBN 118321)
United States Attorney

2 MARK L. KROTOSKI (CASBN 138549)
3 Chief, Criminal Division

4 GARTH HIRE (CASBN 187330)
Assistant United States Attorney

5 1301 Clay Street, Suite 340-S
6 Oakland, California 94612-5217
7 Telephone: (510) 637-3929
Facsimile: (510) 637-3724
8 E-Mail: Garth.Hire@usdoj.gov

9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 OAKLAND DIVISION

13
14 UNITED STATES OF AMERICA,

15 Plaintiff,

16 v.

17 JEFFREY EUGENE BROWN,

18 Defendant.

No. 4 06-MJ-70685 WDB

STIPULATION AND ~~PROPOSED~~
ORDER TO CONTINUE HEARING AND
EXCLUDE TIME UNDER THE SPEEDY
TRIAL ACT

19
20 Plaintiff United States of America, by and through its counsel of record, Assistant United
21 States Attorney Garth Hire, and defendant Jeffrey Eugene Brown ("defendant"), by and through
22 his counsel of record, Harry C. Singer, hereby stipulate as follows:

23 1. Defendant is charged in a criminal complaint alleging violations of 21 U.S.C.
24 § 841(a)(1). The complaint was filed on October 24, 2006. Defendant was arrested and made
25 his initial appearance before the Honorable Wayne D. Brazil, United States Magistrate Judge for
26 the Northern District of California, on October 26, 2006. On October 31, 2006, defendant again
27 appeared before the Court and waived his right to preliminary hearing or examination pursuant to

28 STIPULATION AND PROPOSED ORDER TO CONTINUE
HEARING AND EXCLUDE TIME UNDER
THE SPEEDY TRIAL ACT

cc: WMB's Stats, Copy to parties via ECF,
2 certified copy to Marshall

FILED

FEB 8 - 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

1 Federal Rule of Criminal Procedure 5.1 and waived his right to be charged by information or
 2 indictment pursuant to the Speedy Trial Act of 1974, 18 U.S.C. § 3161(b), until November 27,
 3 2006.

4 2. On November 27, 2006, defendant again appeared before the Court and waived
 5 his right to preliminary hearing or examination pursuant to Federal Rule of Criminal Procedure
 6 5.1 and waived his right to be charged by information or indictment pursuant to the Speedy Trial
 7 Act of 1974, 18 U.S.C. § 3161(b), until January 5, 2007.

8 3. On January 5, 2007, defendant again appeared before the Court and waived his
 9 right to preliminary hearing or examination pursuant to Federal Rule of Criminal Procedure 5.1
 10 and waived his right to be charged by information or indictment pursuant to the Speedy Trial Act
 11 of 1974, 18 U.S.C. § 3161(b), until January 19, 2007.

12 4. On January 17, 2007, by stipulation and proposed order, the parties jointly moved
 13 to continue the preliminary hearing or examination and status conference scheduled for January
 14 19, 2007, to February 9, 2007. In doing so, defendant waived his right to preliminary hearing or
 15 examination pursuant to Federal Rule of Criminal Procedure 5.1 and waived his right to be
 16 charged by information or indictment pursuant to the Speedy Trial Act of 1974, 18 U.S.C. §
 17 3161(b), until February 9, 2007. On January 19, 2007, this Court signed an order continuing the
 18 hearing and delaying the preliminary hearing and excluding time under the Speedy Trial Act.

19 5. By stipulation and proposed order, the parties jointly move to vacate the hearing
 20 currently scheduled for February 9, 2007, and ask that the matter be placed on this Court's
 21 calendar for preliminary hearing or examination and status conference at 10:00 a.m. on March 2,
 22 2007. Defendant also waives his right to preliminary hearing or examination pursuant to Federal
 23 Rule of Criminal Procedure 5.1 and waives his right to be charged by information or indictment
 24 pursuant to the Speedy Trial Act of 1974, 18 U.S.C. § 3161(b), until March 2, 2007.

25 6. The parties agree and stipulate, and request that the court find the following:

26 a. The ends of justice outweigh the interest of the public and the defendant in
 27 the filing of an information or indictment within the date prescribed by the Speedy Trial Act

28 STIPULATION AND PROPOSED ORDER TO CONTINUE
 HEARING AND EXCLUDE TIME UNDER
 THE SPEEDY TRIAL ACT

1 because:

2 (i) Defendant's counsel is in Los Angeles this week and unable to
3 review the proposed pre-indictment plea agreement in this case with his counsel. In addition,
4 government counsel will be out of the district from February 12 to February 22, 2007.

5 (ii) The defendant and his counsel require additional time for effective
6 preparation, taking into account the exercise of due diligence, including consideration of whether
7 pre-indictment and pre-trial motions are appropriate, to determine whether this case will proceed
8 to indictment and trial, and to adequately prepare for indictment and trial;

9 (iii) Defense counsel represents that he has conferred with his client
10 regarding a continuance of the time to be charged by indictment or information, has advised
11 defendant of his rights under the Speedy Trial Act, defendant understands the ramifications of
12 requesting a continuance, and defendant consents to a continuance of the deadline to be charged
13 by indictment or information;

14 (iv) The parties believe that failure to grant the above-requested
15 continuance would deny defense counsel and the defendant the reasonable time necessary for
16 effective preparation taking into account the exercise of due diligence.

17 b. Based on the foregoing, the parties request that the Court find that for the
18 purpose of computing time under the Speedy Trial Act, 18 U.S.C. § 3161(b), within which an
19 information or indictment must be filed, the time period of February 9, 2007, to March 2, 2007,
20 is deemed excludable pursuant to 18 U.S.C. § 3161(h)(8)(A)(iv) because:

21 (i) As detailed in Section 6(a) above, the ends of justice served by
22 granting a continuance outweigh the best interest of the public and the defendant in a filing of an
23 information or indictment within the period specified in section 3161(b).

24 ///

25 ///

26 ///

27
28 STIPULATION AND PROPOSED ORDER TO CONTINUE
HEARING AND EXCLUDE TIME UNDER
THE SPEEDY TRIAL ACT

KEVIN V. RYAN
United States Attorney

/s/

GARTH HIRE
Assistant United States Attorney

/s/
HARRY C. SINGER
Attorney for Defendant

IT IS SO FOUND AND ORDERED this 8 day of February, 2007.

HONORABLE WAYNE D. BRAZIL
UNITED STATES MAGISTRATE JUDGE

STIPULATION AND PROPOSED ORDER TO CONTINUE
HEARING AND EXCLUDE TIME UNDER
THE SPEEDY TRIAL ACT